

ESTTA Tracking number: **ESTTA458745**

Filing date: **02/27/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	ZINK Imaging Inc.
Granted to Date of previous extension	02/26/2012
Address	16 Crosby Drive Bedford, MA 01730 UNITED STATES
Attorney information	Lee J. Eulgen Neal Gerber & Eisenberg Two North LaSalle Street, Suite 1700 Chicago, IL 60602 UNITED STATES leulgen@ngelaw.com, mhoffman@ngelaw.com, mbenson@ngelaw.com, ssmith@ngelaw.com

Applicant Information

Application No	85135048	Publication date	08/30/2011
Opposition Filing Date	02/27/2012	Opposition Period Ends	02/26/2012
Applicant	Xilinx, Inc. 2100 Logic Drive San Jose, CA 95124 UNITED STATES		

Goods/Services Affected by Opposition

Class 009. All goods and services in the class are opposed, namely: Integrated circuits, namely field programmable gate arrays; computer software for design, programming, and operation of programmable gate arrays

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	3532400	Application Date	10/15/2004
Registration Date	11/11/2008	Foreign Priority Date	NONE
Word Mark	ZINK. ZERO INK.		

Design Mark	ZINK. ZERO INK.
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2008/07/06 First Use In Commerce: 2008/07/06 Printers; computer peripherals; color printers; wireless computer peripherals Class 016. First use: First Use: 2008/07/06 First Use In Commerce: 2008/07/06 Printing paper; printing media, namely digital printing paper and plastic sheets for printing

U.S. Registration No.	3525618	Application Date	11/29/2006
Registration Date	10/28/2008	Foreign Priority Date	NONE

Word Mark	ZINK ZERO INK
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Design Mark	
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Description of Mark	The mark consists of a prism with colors appearing at the top magenta and purple, in the middle blue, on the outer portions gray and on the bottom, yellow and green.
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Goods/Services	Class 009. First use: First Use: 2008/07/06 First Use In Commerce: 2008/07/06 Printers; computer peripherals; color printers; wireless computer peripherals Class 016. First use: First Use: 2008/07/06 First Use In Commerce: 2008/07/06 Printing paper; printing media, namely, digital printing paper, and plastic sheets for printing
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U.S. Registration No.	4045628	Application Date	05/17/2007
Registration Date	10/25/2011	Foreign Priority Date	NONE

Word Mark	ZZZ ZINK ZERO INK
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Design Mark	
Description of Mark	The mark consists of the word "ZINK" appearing in the color black and the wording "ZERO INK" appearing in the color gray, and a design element comprising a progressive development of a prism with colors appearing at the top magenta and purple, in the middle blue, on the outer portions gray and on the bottom, yellow and green.
Goods/Services	Class 009. First use: First Use: 2007/02/00 First Use In Commerce: 2007/02/00 Printers; computer peripherals; color printers; ID card printers; label printers; wireless computer peripherals; cameras; digital cameras Class 016. First use: First Use: 2007/02/00 First Use In Commerce: 2007/02/00 Printing paper; printing media, namely, digital printing paper, label paper, and plastic sheets for printing

U.S. Registration No.	3659303	Application Date	09/17/2007
Registration Date	07/21/2009	Foreign Priority Date	NONE
Word Mark	ZINK		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 009. First use: First Use: 2008/07/06 First Use In Commerce: 2008/07/06 Printers; computer peripherals; color printers; wireless computer peripherals Class 016. First use: First Use: 2008/07/06 First Use In Commerce: 2008/07/06 Printing paper; printing media, namely, digital printing paper and plastic sheets for printing		

U.S. Registration No.	3655864	Application Date	09/19/2007
Registration Date	07/14/2009	Foreign Priority Date	NONE
Word Mark	ZINK. ZERO INK.		

Design Mark	ZINK. ZERO INK.
Description of Mark	NONE
Goods/Services	Class 009. First use: First Use: 2008/07/06 First Use In Commerce: 2008/07/06 Printers; computer peripherals; color printers; wireless computer peripherals Class 016. First use: First Use: 2008/07/06 First Use In Commerce: 2008/07/06 Printing paper; printing media, namely, digital printing paper and plastic sheets for printing

Attachments	78500666#TMSN.jpeg (1 page)(bytes) 77975953#TMSN.jpeg (1 page)(bytes) 77183600#TMSN.jpeg (1 page)(bytes) 77977224#TMSN.jpeg (1 page)(bytes) 77977210#TMSN.jpeg (1 page)(bytes) Notice of Opposition, Appln. No. 85135048.pdf (6 pages)(15947 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by Overnight Courier on this date.

Signature	/Sarah E. Smith/
Name	Sarah E. Smith
Date	02/27/2012

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application)	
Serial No.: 85/135,048)	
)	
Published in the Official Gazette)	
On August 30, 2011)	Opposition No. _____
)	
ZINK IMAGING, INC.)	
)	
Opposer,)	
v.)	
)	
XILINX, INC.,)	
)	
Applicant.)	

NOTICE OF OPPOSITION

This Notice of Opposition is submitted in the matter of Application Serial No. 85/135,048, by which Xilinx, Inc. (“Applicant”) seeks to register the trademark ZYNQ based on the intent to use that mark in connection with “integrated circuits, namely field programmable gate arrays; computer software for design, programming, and operation of programmable gate arrays” in International Class 9. The subject application was published for opposition in the Official Gazette on August 30, 2011. ZINK Imaging, Inc., a Delaware corporation having a place of business at 16 Crosby Drive, Bedford, Massachusetts 01730 (together with its predecessors, “ZINK Imaging”), believes that it would be damaged by the registration and therefore opposes the same.

The grounds for Opposition herein are as follows:

1. ZINK Imaging owns the proprietary ZINK technology that facilitates the printing of full color digital images without the need for ink cartridges or ribbons. Since acquiring the

ZINK technology in October 2005, ZINK Imaging has operated successfully under the ZINK IMAGING trade name.

2. Since long before the acts of Applicant alleged herein, ZINK Imaging and its licensees have been developing a variety of printing-related products to be marketed and sold under and in connection with multiple marks comprised of the term ZINK, including without limitation computer printers, computer peripherals, printing paper, printing media, digital cameras and digital camera printers. ZINK Imaging has devoted significant resources, time and effort to developing the technology and products that are marketed and sold under the marks comprised of the term ZINK.

3. On October 15, 2004, ZINK Imaging's predecessor in interest, Polaroid Corporation, filed U.S. Trademark Application Serial No. 78/500,666. On November 11, 2008, that Application was registered as U.S. Registration No. 3,532,400 for the mark ZINK. ZERO INK. for use in connection with "printers; computer peripherals; color printers; wireless computer peripherals" in International Class 9 and "printing paper; printing media, namely, digital printing paper, and plastic sheets for printing" in International Class 16. That registration is now owned by ZINK Imaging.

4. On November 29, 2006, ZINK Imaging's predecessor in interest, ZINK Imaging, LLC, filed U.S. Trademark Application Serial No. 77/975,953. On October 28, 2008, that Application was registered as U.S. Registration No. 3,525,618 for the mark ZINK ZERO INK and Design for use in connection with "printers; computer peripherals; color printers; wireless computer peripherals" in International Class 9 and "printing paper; printing media, namely, digital printing paper, and plastic sheets for printing" in International Class 16. That registration is now owned by ZINK Imaging.

5. On May 17, 2007, ZINK Imaging's predecessor in interest, ZINK Imaging, LLC, filed U.S. Trademark Application Serial No. 77/183,600. On October 25, 2011, that Application was registered as U.S. Registration No. 4,045,628 for the mark ZZZ ZINK ZERO INK and Design for use in connection with "printers; computer peripherals; color printers; wireless computer peripherals" in International Class 9 and "printing paper; printing media, namely, digital printing paper and plastic sheets for printing" in International Class 16. That registration is now owned by ZINK Imaging.

6. On September 17, 2007, ZINK Imaging filed U.S. Trademark Application Serial No. 77/977,224. On July 21, 2009, that Application was registered as U.S. Registration No. 3,659,303 for the mark ZINK for use in connection with "printers; computer peripherals; color printers; wireless computer peripherals" in International Class 9 and "printing paper; printing media, namely, digital printing paper and plastic sheets for printing" in International Class 16, and is owned by ZINK Imaging.

7. On September 19, 2007, ZINK Imaging filed U.S. Trademark Application Serial No. 77/977,210. On July 14, 2009, that Application was registered as U.S. Registration No. 3,655,864 for the mark ZINK. ZERO INK. for use in connection with "printers; computer peripherals; color printers; wireless computer peripherals" in International Class 9 and "printing paper; printing media, namely, digital printing paper and plastic sheets for printing" in International Class 16, and is owned by ZINK Imaging.

8. On September 24, 2010, after ZINK Imaging filed the foregoing ZINK applications (Application Serial Nos. 78/500,666; 77/975,953; 77/183,600; 77/977,224; and 77/977,210 covering goods in International Classes 9 and 16), Applicant filed an application to register the mark ZYNQ in connection with "integrated circuits, namely field programmable gate

arrays; computer software for design, programming, and operation of programmable gate arrays” in International Class 9.

9. On August 30, 2011, Applicant’s mark published for opposition. On September 28, 2011, ZINK Imaging filed a timely request for a 90-day extension of time in which to oppose the subject application, which was granted by the Trademark Trial and Appeal Board in its September 28, 2011 Order. On December 23, 2011, ZINK Imaging filed a timely request for a 60-day extension of time in which to oppose the subject application with Applicant’s consent, which was granted by the Trademark Trial and Appeal Board in its December 23, 2011 Order.

10. ZINK Imaging is the prior user and registrant of the ZINK family of marks and has priority over Applicant’s proposed use of the subject mark.

11. ZINK Imaging is concerned that Applicant’s substantially identical mark comprised of the term ZYNQ is likely to cause confusion or mistake, or deceive purchasers, in that purchasers would be likely to believe that the similar goods covered by Applicant’s application are ZINK Imaging’s goods, or are in some way legitimately connected with, sponsored by or approved by ZINK Imaging. ZINK Imaging is likewise concerned that Applicant’s registration of its mark would result in damage to ZINK Imaging, and on that basis, ZINK Imaging opposes registration of Applicant’s mark.

WHEREFORE, ZINK Imaging requests that the registration sought by Applicant be refused and that this Notice of Opposition be sustained.

ZINK Imaging requests that the requisite filing fee of \$300.00 be charged to the deposit account of Neal, Gerber & Eisenberg LLP, Account No. 502261.

Please address all communications to Lee J. Eulgen and Sarah E. Smith, Neal, Gerber & Eisenberg LLP, 2 North LaSalle Street, Suite 1700, Chicago, Illinois, 60602.

Respectfully submitted,

Date: February 27, 2012

By: /Sarah E. Smith/
One of the Attorneys for Opposer,
ZINK Imaging, Inc.

Lee J. Eulgen
Sarah E. Smith
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CERTIFICATE OF SERVICE

I, Sarah E. Smith, an attorney, state that, pursuant to 37 CFR §§ 2.101 and 2.119, I caused a copy of the foregoing Notice of Opposition to be served upon:

Britt L. Anderson, Esq. and Susan E. Hollander, Esq.
K&L Gates LLP
630 Hansen Way
Palo Alto, CA 94304

Via Overnight Courier on February 27, 2012.

/Sarah E. Smith/
Sarah E. Smith